



STATE OF DELAWARE

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MEMORANDUM

TO: The Chair and Commissioners

FROM: Lisa B. Driggins, Public Utilities Analyst

A handwritten signature in blue ink, appearing to read "LBD", enclosed in a hand-drawn oval.

DATE: July 12, 2017

SUBJECT: IN THE MATTER OF THE APPLICATION OF TIDEWATER ENVIRONMENTAL SERVICES, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE WASTEWATER SERVICES PURSUANT TO 26 DEL. C. §203D ("210 LAVINA STREET")
(FILED JULY 7, 2017) - PSC DOCKET NO. 17-0490

On July 7, 2017, Tidewater Environmental Services, Inc. ("TESI" or the "Company") filed an application (the "Application") with the Delaware Public Service Commission (the "Commission") seeking a Certificate of Public Convenience and Necessity ("CPCN") to provide wastewater services to one parcel in Sussex County, Delaware, known as Tax Map Parcel No. 235-20.00-3.00 (the "Proposed Service Area"). The basis for the Application is TESI's possession of a petition requesting wastewater services signed by all of the landowners of record of each parcel or property to be encompassed within the Proposed Service Area as required by 26 *Del. C.* §203D(d)(2).

As required by 26 *Del. C.* § 203D and the Commission's *Regulations Governing Certificates of Public Convenience and Necessity to Provide Wastewater Services*, 26 *Del. Admin. C.* § 6001 (the "Regulations"). TESI included the following documentation in its Application: (1) a copy of the petition requesting wastewater services signed by all of the landowners of record of each parcel or property encompassed within the Proposed Service Area; (2) copies of the United States Postal Service forms verifying that the Company sent, via certified mail, a Commission approved notice to all landowners of record of each parcel included in the Proposed Service Area; (3) a list of the County tax map parcel identification numbers of the properties and identification of all landowners of record included in the Proposed Service Area; and (4) a copy of the associated tax map clearly marking the Proposed Service Area. Staff found no errors or omissions during its review of the Application.

On June 28, 2017, the landowner contacted TESI to request wastewater service for a house being built at 210 Lavinia Street in Milton, DE. The landowner anticipates moving into the home

around the middle of August. In order for TESI to provide wastewater service to the Proposed Service Area in this time frame, TESI's Application will require expedited treatment.

The Application included a request from the Company requesting a waiver of the timing requirement prescribed in 26 *Del. Admin. C.* § 6001-7.2¹. As a "good cause," the Company submits granting the requested waiver would be in the public interest because the timing requirement is an administrative rather than a statutory requirement and TESI had provided all necessary information about the parcels. Additionally, it is TESI's understanding that no customer complaints have been received regarding the Application. Furthermore, TESI believes that granting the waiver should not be unduly disruptive for customers and would provide for an administratively efficient use of resources. Lastly, TESI believes an extension of wastewater service to the parcel listed in the Application would not harm or degrade its ability to provide reliable wastewater service for its existing customers. Staff believes that the reasons given as "good cause" justify a waiver; therefore, Staff recommends that the Commission grant the requested waiver of the timing requirement.

As required by the Regulations, Staff requested written comment from the Division of Water Resources of the Department of Natural Resources and Environmental Control ("DNREC"), the Delaware Office of State Planning Coordination ("OSP"), and the Sussex County Engineering Department ("County") regarding the Proposed Service.

DNREC replied it had no objection to the Commission granting a CPCN to TESI to provide wastewater treatment and disposal services for the parcel of land.

Staff copied the County and the Delaware Office of State Planning (the "OSP") on its request for comment sent to DNREC.² The County received and reviewed the CPCN application and stated it will not object to a CPCN being approved for this project.

The OSP also responded noting that Sussex County Tax Map Parcel Number 235-20.00-3.00 is located within a Level 2. Level 2 is an area which is defined as an area where growth is anticipated by local, county, and State plans in the near term future. OSP further stated that after reviewing the Land Use Planning Act ("LUPA") and Preliminary Land Use Services ("PLUS") records that the parcel for the Proposed Service Area has not been reviewed through LUPA or PLUS for any development.

In conclusion, Staff recommends that the Commission grant TESI's requested waiver of the regulatory timing requirements. The Application filed by TESI complies with all statutory and

¹ Under 26 *Del. Admin. C.* § 6001-7.2, the form of notice required by these regulations shall be sent to each landowner of record not more than sixty days and not less than thirty days prior to the filing of the Application.

² Under Commission rules, the utility is required to file a copy of its application with DNREC, OSP, and: "a) any county within whose boundaries the proposed service territory would be located; and b) any municipality, town or local authority: i) whose boundaries are adjacent to the proposed service territory; or ii) within whose boundaries or existing wastewater service territory the proposed service territory would be located." While written comment is only required from DNREC, by notifying the other agencies Staff can be alerted if an Application is not filed, or if there is a significant issue with an Applicant or Application that the Commission may wish to consider.

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regulatory requirements of 26 *Del.* § 203D and 26 *Del. Admin. C.* § 6001. Therefore, consistent with statutory requirements, Staff recommends the Commission approve the Application.